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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Cheryl Lucille Gaffner,

10 Plaintiff,

11 v.

12 Stratton Restoration LLC,

13 Defendant.
14

NO. CV-15-02166-PHX-JAT

RULE 16 SCHEDULING ORDER

15 On August 24, 2016, a Scheduling Conference was held in open Court pursuant to
16 Rule 16(b) of the Federal Rules of Civil Procedure. Prior to the conference, the parties
17 filed a joint Rule 26(f) Proposed Case Management Plan. Pursuant to the terms of the
18 Plan and the representations made by the parties at the Scheduling Conference, all parties
19 were ordered to comply with the deadlines established in this Order.

20 **IT IS THEREFORE ORDERED** that the current provisions of the Federal Rules
21 of Civil Procedure shall apply to all proceedings concerning this case.

22 **IT IS FURTHER ORDERED** that all Initial Disclosures as defined in Federal
23 Rule of Civil Procedure 26(a), if not already exchanged prior to the time of the
24 Scheduling Conference, shall be made **no later than ten (10) days** after the entry of this
25 Order.

26 **IT IS FURTHER ORDERED** that to satisfy the requirements of Federal Rule of
27 Civil Procedure 26(a), the parties shall file with the Clerk of the Court a Notice of Initial
28 Disclosure rather than copies of the actual disclosures.

1 **IT IS FURTHER ORDERED** that any motion to amend the Complaint shall be
 2 filed no later than October 7, 2016. If no amended complaint is filed, any motion to
 3 amend the Answer shall be filed no later than October 21, 2016.

4 **IT IS FURTHER ORDERED** that the party with the burden of proof on an issue
 5 shall make all expert disclosures required by the Federal Rules of Civil Procedure no later
 6 than January 27, 2017. The responding party (not having the burden of proof on the
 7 issue) shall make all expert disclosures required by the Federal Rules of Civil Procedure
 8 no later than February 27, 2017.¹ The party with the burden of proof on the issue shall
 9 make its rebuttal expert disclosure, if any, no later than March 24, 2017. No deposition
 10 of any expert witnesses shall occur before the disclosures concerning expert witnesses
 11 mandated by this Order are made.

12 **IT IS FURTHER ORDERED** that all discovery, including depositions of parties,
 13 witnesses, and experts, answers to interrogatories, and supplements to interrogatories
 14 must be completed by April 28, 2017. In no event, however, shall this provision alter the
 15 duties and obligations imposed upon the parties by Federal Rule of Civil Procedure 26(e).
 16 This Order contemplates that each party will conduct discovery in an expeditious manner
 17 so as to **complete, within the deadline, any and all discovery**.² Further, in responding
 18 to Requests for Admissions, Requests for Production, or Interrogatories, the parties are
 19 cautioned that the Federal Rules of Civil Procedure do not permit “general” or “global”
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21 ¹ If no expert disclosure is made by a party who has the burden of proof on
 22 an issue by the initial expert disclosure deadline, all initial expert disclosures by the party
 23 who does not have the burden of proof on an issue shall be made no later than the
 responding party deadline. A party responding to this type of disclosure shall do so by
 the rebuttal disclosure deadline.

24 ² As set forth in the Order Setting Rule 16 Scheduling Conference, the Court will
 25 not entertain discovery disputes after the close of discovery barring extraordinary
 26 circumstances. Therefore, the parties shall **complete** all discovery by the deadline set
 27 forth in this Order (**complete** being defined as including the time to propound discovery,
 28 the time to answer all propounded discovery, the time for the Court to resolve all
 discovery disputes, and the time to complete any final discovery necessitated by the
 Court’s ruling on any discovery disputes). Thus, “last minute” or “eleventh hour”
 discovery which results in insufficient time to undertake additional discovery and which
 requires an extension of the discovery deadline will be met with disfavor, and may result
 in denial of an extension, exclusion of evidence, or the imposition of other sanctions.

1 objections. Accordingly, the Court will not consider nor rule on objections that are not
2 specific to the individual request propounded.

3 **IT IS FURTHER ORDERED** that notwithstanding any provisions of the Federal
4 Rules of Civil Procedure or any other provisions of this Order, non-party witnesses shall
5 **not** be permitted to attend, either physically, electronically, or otherwise, the deposition
6 of any other witness in this case without an Order of this Court to the contrary.

7 **IT IS FURTHER ORDERED** reminding counsel of their duty under Rule 26(e)
8 of the Federal Rules of Civil Procedure to supplement all Rule 26(a) disclosures and
9 responses to discovery requests. Pursuant to Rule 26(e)(1), any additions or other
10 changes to information previously disclosed must be made prior to the time that Rule
11 26(a)(3) Pretrial Disclosures are due. The Court effectively requires all Rule 26(a)(3)
12 Pretrial Disclosures to be contained in the Joint Proposed Final Pretrial Order. Therefore
13 all exhibits and witnesses that may be offered at trial must be disclosed before the
14 discovery deadline and sufficiently in advance of the deadline that meaningful discovery
15 necessitated by such disclosures can reasonably be completed before the discovery
16 deadline. This Order therefore supersedes the “thirty-day before trial” disclosure
17 deadline contained in that Rule. Therefore (1) failure to have timely supplemented a
18 Rule 26(a) disclosure, including but not limited to witnesses and exhibits, (2) failure to
19 have timely supplemented responses to any valid discovery requests, or (3) attempting to
20 include any witnesses or exhibits in the **joint** Proposed Final Pretrial Order that were not
21 previously disclosed in a timely manner so as to allow for meaningful discovery prior to
22 the discovery deadline set forth in this Order, may result in the exclusion of such
23 evidence at trial or the imposition of other sanctions.

24 **IT IS FURTHER ORDERED that discovery motions are prohibited.** In the
25 event of a discovery dispute, the parties shall jointly contact the Court via conference call
26 to request a telephonic conference. The parties shall **not** contact the Court regarding a
27 discovery dispute unless they have been unable to resolve the dispute themselves after
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1 personal consultation³ and sincere efforts to do so, **and they are prepared to state to the**
 2 **court that they agree what is in dispute.** The parties shall not file any written materials
 3 related to a discovery dispute without express leave of Court. If the Court does order
 4 written submissions, the movant shall include a statement certifying that counsel could
 5 not satisfactorily resolve the matter after personal consultation and sincere efforts to do
 6 so in accordance with Civil Local Rule 7.2(j).

7 **IT IS FURTHER ORDERED** that all dispositive motions shall be filed no later
 8 than May 19, 2017. Such motions must be, in all respects, in full compliance with the
 9 Civil Local Rules.

10 **IT IS FURTHER ORDERED** that each party shall file no more than one
 11 motion for summary judgment unless leave of Court is obtained. To obtain leave of
 12 Court, a party shall file a motion setting forth the reasons justifying the filing of more
 13 than one summary judgment motion and/or the reasons the party seeks leave to exceed
 14 the page limits set forth in Civil Local Rule 7.2(e).

15 **IT IS FURTHER ORDERED** that all parties are hereby specifically admonished
 16 that failure to respond to a motion by serving and filing an answering memorandum
 17 within the time period expressly provided for in Civil Local Rule 7.2(c), 56.1(b) and/or
 18 12.1(b) may be deemed a consent to the denial or granting of the motion and the Court
 19 may dispose of the motion summarily pursuant to Civil Local Rule 7.2(i).

20 **IT IS FURTHER ORDERED** that, the parties shall not notice oral argument on
 21 any motion. Instead, a party desiring oral argument on a motion shall request argument
 22 by placing **“Oral Argument Requested”** immediately below the title of such motion.
 23 The Court will then issue a minute entry order scheduling the oral argument if it deems
 24 one necessary.

25 Oral argument shall be scheduled at the request of a party on all motions to
 26 dismiss and motions for summary judgment. On all other motions on which a party

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 28 ³ If represented by counsel, lead counsel must be on the conference call and have participated in the personal consultation.

1 requests oral argument as set forth above, the Court will determine whether oral argument
2 is necessary. The parties are reminded that obtaining oral argument is purely
3 administrative. Accordingly, regardless of a scheduled oral argument, the Court may, at
4 any time, determine that oral argument is unwarranted and rule on the motion without
5 oral argument.

6 **IT IS FURTHER ORDERED** that any and all motions, requests, or stipulations
7 for extensions of time shall be made in accordance with the provisions of Civil Local
8 Rule 7.3. Notwithstanding this directive, however, if such motion, request, or stipulation
9 seeks an extension of time in which to file a memorandum in response or in reply to a
10 motion previously noticed for oral argument, under no circumstances shall such motion,
11 request, or stipulation seek an extension that would preclude the Court from having at
12 least **thirty (30) days** from the due date for the filing of the reply memorandum to
13 consider the merits of the underlying motion unless the motion, request, or stipulation
14 also seeks to vacate and reschedule the oral argument. Any motion, request, or
15 stipulation that seeks both an extension of time and the rescheduling of oral argument
16 shall contain a memorandum of points and authorities that demonstrates good cause for
17 the Court to grant the requested extension. The deadlines set forth in this Order are the
18 deadlines by which a party must file documents with the Court, in addition to serving
19 opposing counsel, notwithstanding Federal Rule of Civil Procedure 5(d).

20 **IT IS FURTHER ORDERED** that, if no dispositive motions are pending before
21 the Court after the dispositive motion deadline has passed, **Plaintiff(s) shall file and**
22 **serve a Notice of Readiness for Final Pretrial Conference within ten (10) days of the**
23 **dispositive motion deadline.**

24 **IT IS FURTHER ORDERED** that, if dispositive motions are pending before the
25 Court following the dispositive motions deadline, **Plaintiff(s) shall file and serve a**
26 **Notice of Readiness for Final Pretrial Conference within ten (10) days of the**
27 **resolution of the last dispositive motion.**⁴

28 ⁴ Though the Court discourages the filing of motions for reconsideration, should a

1 **IT IS FURTHER ORDERED** that the Order Setting Final Pretrial Conference
 2 will: (1) set deadlines for the filing of and response to motions in limine; (2) instruct the
 3 parties on their duties in preparing for the Final Pretrial Conference and for trial; and (3)
 4 include a form for the completion of the parties' **joint** Proposed Final Pretrial Order.

5 **IT IS FURTHER ORDERED** that because the deadlines set forth herein will
 6 trigger setting a trial date, the Court deems these deadlines to be the equivalent of a firm
 7 trial date.⁵

8 **IT IS FURTHER ORDERED** that all motions for an award of attorneys' fees
 9 shall be accompanied by an electronic spreadsheet, to be e-mailed to the Court and
 10 opposing counsel, containing an itemized statement of legal services with all information
 11 required by Local Rule 54.2(e)(1). This spreadsheet shall be organized with rows and
 12 columns and shall automatically total the amount of fees requested so as to enable the
 13 Court to efficiently review and recompute, if needed, the total amount of any award after
 14 disallowing any individual billing entries. This spreadsheet does not relieve the moving
 15 party of its burden under Local Rule 54.2(d) to attach all necessary supporting
 16 documentation to its memorandum of points and authorities filed in support of its motion.
 17 A party opposing a motion for attorneys' fees shall e-mail to the Court and opposing
 18 counsel a copy of the moving party's spreadsheet adding any objections to each contested
 19 billing entry (next to each row, in an additional column) so as to enable the Court to
 20 efficiently review the objections and recompute the total amount of any award after
 21 disallowing any individual billing entries. This spreadsheet does not relieve the non-
 22 moving party of the requirements of Local Rule 54.2(f) concerning its responsive
 23 memorandum.


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 26 party choose to file a motion for reconsideration of an interlocutory order, such party
 shall file such motion under the standard set forth in *Motorola, Inc. v. J.B. Rogers*
Mechanical Contractors, Inc., 215 F.R.D. 581, 586 (D. Ariz. 2003).

27 ⁵ Additionally, the Court will attempt to set the Final Pretrial Conference within 90
 28 days of the resolution of the last dispositive motion, and will set Trial within 120 days of
 the Final Pretrial Conference. Therefore, the parties can calculate approximately when
 their trial date will be based on either the resolution of the last pending dispositive
 motion, or the setting of the Final Pretrial Conference.

1 **IT IS FURTHER ORDERED** that the parties shall keep the Court informed
2 regarding the possibility of settlement and, should settlement be reached, the parties shall
3 file a Notice of Settlement with the Clerk of the Court.

4 **IT IS FURTHER ORDERED** that the Court views compliance with the
5 provisions of this Order as critical to its case management responsibilities and the
6 responsibilities of the parties under Rule 1 of the Federal Rules of Civil Procedure.

7 Dated this 30th day of August, 2016.

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12 James A. Teilborg
13 Senior United States District Judge
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